

10/047,577

(5/5)

| | Type | L # | Hits | Search Text | DBs | Time Stamp |
|---|------|-----|------------|---|--|---------------------|
| 1 | BRS | L1 | 3952 | wireless near5 solution | US-PGPUB ; USPAT ; EPO; JPO; DERW ENT | 2005/04/18 16:08 |
| 2 | BRS | L2 | 11417 1 | wireless near5 (device or network or phone) | US-PGPUB ; USPAT ; EPO; JPO; DERW ENT | 2005/04/18 16:09 |
| 3 | BRS | L3 | 2265 | l1 and l2 | US-PGPUB ; USPAT ; EPO; JPO; DERW ENT | 2005/04/18 16:09 |
| 4 | BRS | L4 | 24177 9 | data near5 access\$4 | US-PGPUB ; USPAT ; EPO; JPO; DERW ENT | 2005/04/18 16:09 |
| 5 | BRS | L5 | 643 | l3 and l4 | US-PGPUB ; USPAT ; EPO; JPO; DERW ENT | 2005/04/18 16:09 |

| | Type | L # | Hits | Search Text | DBs | Time Stamp |
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| 6 | BRS | L6 | 492798 | mobile | US-PGPUB; USPAT; EPO; JPO; DERW ENT | 2005/04/18 16:09 |
| 7 | BRS | L7 | 543 | I5 and I6 | US-PGPUB; USPAT; EPO; JPO; DERW ENT | 2005/04/18 16:10 |
| 8 | BRS | L8 | 0 | availab44 | US-PGPUB; USPAT; EPO; JPO; DERW ENT | 2005/04/18 16:10 |
| 9 | BRS | L9 | 5864558 | availab\$6 | US-PGPUB; USPAT; EPO; JPO; DERW ENT | 2005/04/18 16:10 |
| 10 | BRS | L10 | 508 | I7 and I9 | US-PGPUB; USPAT; EPO; JPO; DERW ENT | 2005/04/18 16:11 |

| | Type | L # | Hits | Search Text | DBs | Time Stamp |
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| 11 | BRS | L11 | 288583 | Internet | US-PGPUB; USPAT; EPO; JPO; DERWENT | 2005/04/18 16:11 |
| 12 | BRS | L12 | 470 | I10 and I11 | US-PGPUB; USPAT; EPO; JPO; DERWENT | 2005/04/18 16:11 |
| 13 | BRS | L13 | 21919 | Revenue | US-PGPUB; USPAT; EPO; JPO; DERWENT | 2005/04/18 16:11 |
| 14 | BRS | L14 | 73 | I12 and I13 | US-PGPUB; USPAT; EPO; JPO; DERWENT | 2005/04/18 16:11 |

Dependent Claims That Switch Statutory Class

Overview:

Applications in class 705 often include a claim that refers to a previous claim but is in another statutory class, e.g. "A computer program product for performing the method of claim 1." Initially, note that for fee purposes, virtually every claim that refers to another claim will be taken as a **dependent** claim without determining whether there is actually a true dependent relationship. This does not preclude a subsequent holding by the examiner that a claim is not a proper dependent claim. See MPEP 608.01(n), Section II. As a result, the above "computer program product" example is at least initially considered a dependent claim.

A dependent claim that is in a different statutory class than its independent claim is not automatically improper. To test if any claim is a proper dependent claim, use the "infringement test" in MPEP 608.01(n), Section III. If a claim is a **proper dependent** claim, it **cannot conceivably be infringed by anything that would not also infringe the claim it references**. Another way to think of it is - if you can infringe the dependent claim without infringing the independent claim, then the dependent claim is an improper dependent claim because it does not require all the limitations of the independent claim.

Example:

Expanding the above example further, suppose the method of claim 1 is (adapted from US 6,484,169):

1. A method of supplying product information to a user by means of a computer interface comprising the steps of:
 - a) supplying a list of product choices and receiving a user selection of one or more items from the list of product choices via said computer interface;
 - b) responding to the user selection of the one or more items by providing a number of product options concerning one or more characteristics of the product and allowing the user to choose from said product options;
 - c) updating an available products database based on manufacturing criteria, including raw material availability and plant capacity;
 - d) based on the user chosen product characteristics, searching the available products database for one or more products that produce a best fit to the user chosen product characteristics with product characteristics in the available products database and conveying the results of said search to the user; and
 - e) said searching comprising the steps of assigning weights to said one or more characteristics and assigning a match score based on the user choices.

Now consider the dependent claim mentioned:

2. A computer program product for performing the method of claim 1.

Finally, consider whether the dependent claim complies with 35 USC 112. For example, if the method for providing product information above includes the additional steps of manufacturing the product in a factory and physically shipping the product to the user, then the “computer program product for performing the method of claim 1” would be confusing. This is because the program, even when executed, could not perform all of claim 1. In particular, at least the step of physically shipping the product to the user requires more than just a computer executing code.



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|-----|---------|-----------------|
| 1 | SRNT | 4 |

Total number of pages: 4

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